AO106 (Rev. 12/03) Affidavit for Search Warrant

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

In the Matter of the Search of
(Name, address or brief description of person, property or premises to be searched)

THE PREMISES LOCATED AT
699 S. Fifth Street
Brawley, California 92227

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

Case Number: '08 MJ 8229

I, ENRIQUE TORREGROSA being duly sworn depose and say:

I am a(n) Special Agent with U. S. Immigration & Customs Enforcement and have reason to believe
Official Title

that ☐ on the person of or ☑ on the property or premises known as (name, description and/or location)

REFER TO ATTACHMENT A

in the SOUTHERN District of CALIFORNIA

there is now concealed a certain person or property, namely (describe the person or property to be seized)

REFER TO ATTACHMENT B

which is (state one or more bases for search and seizure set forth under Rule 41(c) of the Federal Rules of Criminal Procedure)

concerning a violation of Title 21 United States code, Section(s) 841(a)(1); 846, 952, 960, 963

The facts to support a finding of probable cause are as follows:

SEE ATTACHED AFFIDVIT OF ICE SPECIAL AGENT ENRIQUE TORREGROSA

FILED
MAR 14 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

Continued on the attached sheet and made a part hereof: ☑ Yes ☐ No

Signature of Affiant

Sworn to before me and subscribed in my presence,

March 14 2008 @ 4:06 pm at EL CENTRO, CALIFORNIA
Date City State

PETER C. LEWIS U.S. Magistrate Judge
Name of Judge Title of Judge

Signature of Judge

ATTACHMENT A

Description of the Property and Premises to be Searched

699 S. Fifth Street, Brawley, California 92227

The premises located at 699 S. Fifth Street, Brawley, California, 92227, including the residence, all rooms, attics, basements, garages, storage areas, safes, briefcases, containers, trash areas, trash containers, surrounding grounds, vehicles and outer buildings of any kind located thereon. The residence is described as follows:

A beige stucco one story single-family detached residence with light brown tile roof and a white wrought iron fence in the front of the residence and a wooden fence in the backyard of the residence. The doors of the residences face the East toward Fifth Street. The numbers "699" are affixed and visible in large black numbers on the southernmost wall of the house visible to Fifth Street in Brawley, California. The house is located on the northern east side of Fifth Street.

As well as all vehicles located within the property boundaries, and parked on the street that have been determined to be associated to the residence.

ATTACHMENT B

Description of Items to Be Seized

699 Fifth Street, Brawley, California 92227

a. Controlled substances including any detectable amount of controlled substances, marihuana.

b. Paraphernalia for packaging, weighing, cutting, using, marketing, testing, distributing, storing, identifying and transporting controlled substances, including plastic packaging, zip-lock bags, containers and scales.

c. Documents relating to or memorializing the ordering, purchase, storage, transportation and sale of controlled substances, including U.S. currency used in the purchase and sale of controlled substances, buyer lists, seller lists, owe-pay sheets and records of sales, logs books, controlled substance ledgers, personal telephone/address books of customers and supp0liers, bank and financial records, records relating to domestic and foreign travel such as tickets, passports, visas, credit card receipts, travel schedules, receipts and records, and storage records, such as storage locker receipts and safety deposit box rental records.

d. Articles of personal property evidencing the existence of a conspiracy to possess and sell controlled substances, including photographs, and papers and documents consisting of lists of names and/or numbers.

e. Articles of personal property evidencing the obtaining, secreting, transfer, expenditure and/or concealment of money and assets derived from or to be used in the sale of controlled substances, including books receipts, records, bank statements and records, business records, money drafts, money order and cashier's checks receipts, passbooks, bank checks, safes and records of safety deposit boxes and storage lockers.

f. Proceeds and articles of personal and real property which are the fruits, instrumentalities and evidence of trafficking in controlled substances, including U.S. currency, precious metals and stones, jewelry, negotiable instruments and financial instruments including stocks and bonds and deeds of title and documents evidencing ownership of real property, which were obtained from the sale of controlled substances or proceeds there from.

g. Photographs of participants and fruits and evidence of trafficking in controlled substances.

h. Equipment used to detect police activities and surveillance, including radio scanners and tape and wire transmitter detectors.

i. Documents and articles of personal property showing the identity of persons occupying, possession, residing in, owning, frequenting or controlling the premises to be searched or property therein, including keys, rental agreements and records, property acquisition records, utility and telephone bills and receipts, photographs, answering machine tape recordings, telephone beeper or paging devices, rolodexes, telephone answering pads, storage records, vehicle or vessel records, cancelled mail envelopes, correspondence, financial documents such as tax returns, back records, safety deposit box records, cancelled checks, and other records of income and expenditure, credit card and bank records, and personal identification and travel documents.

AFFIDAVIT IN SUPPORT OF APPLICATION FOR SEARCH WARRANT

FILED
MAR 1 4 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN DIEGO)

'08 MJ 8229

I, Enrique Torregrosa, Special Agent, United States Immigration and Customs Enforcement, being duly sworn, hereby depose and say:

I

EXPERIENCE AND TRAINING

1. I am a Special Agent employed by the United States Department of Homeland Security, United States Immigration and Customs Enforcement Agency ("ICE") and have served in that capacity since August 6, 2006. I am currently assigned to the Office of the Assistant Special Agent in Charge, Office of Investigations, Calexico, California. In the course of my duties, I investigate, apprehend, and prepare cases for prosecution relating smuggling and transportation of controlled substances. During my tenure with the Office of the Assistant Special Agent in Charge, Calexico, California I have personally arrested at least 70 persons for violations of the Controlled Substance Act. In each of these cases I have conducted interviews with the arrested persons and often times with their associates. Through these interviews, I have gained a working knowledge and insight into the typical workings of controlled substance traffickers and smugglers. I have also gained extensive information as to the normal operational habits of persons who make their living as controlled substance traffickers.

2. To become a Special Agent, I completed a 24-week academy at the Federal Law Enforcement Training Center in Glynco, Georgia. During this training, I received

instruction in conducting criminal investigations. I also have approximately nine additional years of law enforcement experience. Prior to becoming a Special Agent, I was a U.S. Customs and Border Protection Canine Officer and a U.S. Customs and Border Protection (CBP) Officer, in these positions I was regularly exposed to persons who were involved in violations of federal and state law relating to trafficking in controlled substances. Prior to working for the U.S. CBP, I was a Correctional Officer for two years working with the Imperial County Sheriff's Department, in this position I conducted investigations of crimes committed by inmates inside the correctional facility, most of the time involving controlled substance violations.

3. Additionally, I have an Associate of Art from Imperial Valley College, a Bachelors Degree in Criminal Justice, and I am currently working on a Master's Degree in Business Administration with emphasis on Public Administration.

4. In preparing this affidavit, I have conferred with other Special Agents who have combined experience of over forty years as ICE Special Agents, and they share the opinions stated below. Furthermore, I have personal knowledge of the following facts or have been told these facts by the persons mentioned herein. Base on the facts and opinions set forth in this affidavit, I submit the following

a. Controlled substances including any detectable amount of controlled substances, marihuana.

b. Paraphernalia for packaging, weighing, cutting, using, marketing, testing, distributing, storing, identifying and transporting controlled substances, including plastic packaging, zip-lock bags, containers and scales.

c. Documents relating to or memorializing the ordering, purchase, storage, transportation and sale of controlled substances, including U.S. currency used in the purchase and sale of controlled substances, buyer lists, seller lists, owe-pay sheets and records of sales, logs books, controlled substance ledgers, personal telephone/address books of customers and supp0liers, bank and financial records, records relating to domestic and foreign travel such as tickets, passports, visas, credit card receipts, travel schedules, receipts and records, and storage records, such as storage locker receipts and safety deposit box rental records.

d. Articles of personal property evidencing the existence of a conspiracy to possess and sell controlled substances, including photographs, and papers and documents consisting of lists of names and/or numbers.

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f. Proceeds and articles of personal and real property which are the fruits, instrumentalities and evidence of trafficking in controlled substances, including U.S. currency, precious metals and stones, jewelry, negotiable instruments and financial instruments including stocks and bonds and deeds of title and documents evidencing ownership of real property, which were obtained from the sale of controlled substances or proceeds there from.

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II

PURPOSE OF THIS AFFIDAVIT

5. This affidavit is made in support of an application for a warrant to search the following location: 699 S. Fifth Street in Brawley, California, 92227 ("TARGET RESIDENCE"). The TARGET RESIDENCE is described in more detail in Attachment A, attached hereto, and incorporated herein by reference.

6. I make this affidavit based on personal knowledge derived from my participation in this investigation. Because this affidavit is offered for the limited

purpose of establishing probable cause for the issuance of this search warrant, it does not contain all the information that the government possesses relative to this investigation.

III

SCHEDULE OF EVIDENCE TO BE SEIZED

7. A list of specific items to be seized from the TARGET RESIDENCE is attached hereto, and incorporated herein, as Attachment B. Based on my training and experience, as detailed above, and on information obtained in the course of this investigation, as detailed below, I believe there is probable cause to believe that the items listed in Attachment B will be found at the TARGET RESIDENCE described in Attachment A.

IV

PROBABLE CAUSE TO SEARCH THE TARGET RESIDENCE

8. On March 14, 2008, at approximately 0100 hours a concerned citizen contacted Special Agent (SA) Torregrosa and advised him that a 1990 Ford Econoline Van with unknown plates was going to cross the Calexico East Port of entry carrying about 800 kilograms of marijuana shortly after the Port opens at 0300 hours.

9. On March 14, 2008, at approximately 0400 hours, Customs and Border Protection Officers (CBPO) spotted the 1990 Chevrolet Van, bearing California plate 2TAS364, containing several packages located in the back of the van. The registered owner of the 1990 Chevrolet Van is Pedro Sandoval Aguello, Calle 6 KM, Mexicali, Baja California, Mexico. The driver was identified as Francisco Javier GALLEGOS and was taken to the vehicle secondary office for further proceedings. CBPO C. Martinez probed one of the packages and obtained a green leafy substance, which field-tested positive for

marihuana. The van was completely packed with packages consistent with the earlier report that 800 kilograms of marihuana were going to be smuggled into the United States.

10. SA Torregrosa who was on scene was notified and contacted GALLEGOS. As SA Torregrosa was identifying himself to GALLEGOS, GALLEGOS' cell phone group talk radio rang. SA Torregrosa answered the radio in Spanish and stated "Que Onda", which means what's up, an unidentified male subject answered in Spanish thinking he was talking to ~~DOE~~ Gallegos and asked, "Ya crusastes la garita," meaning if I had already crossed the port of entry, to which I replied "Simon", meaning yes. The subject replied back by saying "Okay llevatela a la Wal-Mart de El Centro, y alguin te va ha pedir las llaves, daselas y esperate en la Wal-Mart," meaning Okay take it to Wal-Mart in El Centro, and someone will ask you for the keys, give them the keys and wait at Wal-Mart.

11. On March 14, 2008, at approximately 0500, hours a cold convoy operation (surveillance operation) was conducted at the Calexico East Port of Entry by the ICE, Office of Investigations, and Imperial County Narcotic Task Force (ICNTF). SA Gates drove the van to Wal-Mart in El Centro, California and surveyed by Special Agents from Office of the Assistant special Agent in Charge, Calexico, California. SA Gates and the van were surveyed from the Calexico East Port of Entry to Wal-Mart in El Centro, California. Once the drug-laden van arrived at the Wal-Mart in El Centro, California, at approximately 0500 hours, SA Gates exited the van and waited for a call, at approximately 0700 hours GALLEGOS' cell phone group talk rang, and a subject identified as "PULGA" by the cell phone's caller I.D. PULGA stated to drive the van to Jack-In-The-Box located in Brawley, California near the 111 Highway. SA Gates drove

the van to the Jack-In-The-Box in Brawley, California. ICE and ICNTF agents surveyed SA Gates and the van form El Centro, Wal-Mart to the Jack-In-The-Box in Brawley. Upon arrival to the Jack-In-The-Box, approximately 0745 hours, SA Gates dropped the van and left the keys underneath the driver's side mat and exited the van. At 0755 hours, a Hispanic male wearing blue shorts, blue shirt, 5' 9'', 200 pounds entered the van and drove away. ICE and ICNTF agents surveilled the subject and the van from Jack-In-The-Box to 1346 H Street in Brawley, California. The van was driven through an alley and parked in the back yard of 1346 H Street, the driver exited the van and went inside the house, no packages were off-loaded.

12. On March 14, 2008 at approximately 1200 hours, the same driver entered the van and left the residence at 1346 H Street in Brawley, California. The subject drove the van to 699 S. Fifth Street in Brawley, California. The driver seemed to be following a Hispanic female driving a 2006 Nissan Altima bearing California plate number 5TKT659. The registered owner of the 2006 Nissan Altima is Roberto Juarez, 1528 River Drive, Brawley, California 92227. The van went behind the residence at 699 S. Fifth Street in Brawley through an alley and backed into the residence. The Nissan Altima drove into the driveway of the residence.

13. Utility record checks show that the person who is currently responsible for paying the utilities for the address of 699 S. 5th Street, Brawley, California 92227 is Maria Leon, Date of Birth: 10/02/67.

VI

14. Based on the facts contained in this affidavit and my experience and training, I submit that there is probable cause to believe that the TARGET RESIDENCE, as more particularly described in Attachment A, contains evidence of violations of Title 21, United States Code, Section 952 and 960 Importation and Transportation of a Controlled Substance. I believe that individuals involved in trafficking of controlled substance, traffickers move the controlled substance from stash house to stash house in order to avoid detection by law enforcement. Based on the facts of this affidavit, I believe the individuals involved are moving the marijuana from location to location in order to avoid detection by law enforcement.

15. Further, I believe the above-described property/items to be seized will be found when this warrant is served and based on the above-listed probable cause, I specifically request authority to seize the items described above and in Attachment B hereto, which is incorporated by reference herein.

a. It is customary for individuals involved in controlled substance trafficking to maintain controlled substances so they are readily available to show as samples to prospective purchasers, and to conceal such controlled substances within their residence or other storage facilities to avoid detection by authorities.

b. It is common for individuals involved in controlled substance dealing to maintain in their residence or separate storage facilities controlled substance paraphernalia for packaging, weighing, cutting, using, marketing, testing, distributing, storing, identifying, and transporting controlled substances.

c. Individuals involved in controlled substance trafficking maintain in their residences and separate storage facilities records and ledgers evidencing their trafficking activities in order to keep track of the ordering, purchasing, storage, distribution and transportation of controlled substances. At times, the controlled substances may be sold, but documentary records and ledgers remain to memorialize past transactions, the status of accounts receivable and accounts payable, and the names and telephone numbers of suppliers, customers and co-conspirators.

d. Individuals involved in controlled substance trafficking must rely on others to obtain the controlled substances and help them market the controlled substances, and evidence of the identities of these co-conspirators is often maintained in their residence or separate storage facilities.

e. Individuals involved in controlled substance trafficking obtain large sums of money and try to legitimize these profits. In order to do this, they attempt to secrete, transfer and conceal the money, by and among other ways, (1) placing assets in names other than their own to avoid detection while maintaining control, (2) laundering the money through what appears to be a legitimate business, (3) hiding the money in their homes, safes and safety deposit boxes, or (4) using the money to by assets which are difficult for law enforcement to trace. Records for these transactions are often found in their residences or separate storage facilities maintained by the narcotics trafficker.

f. Individuals involved in controlled substance trafficking must maintain on hand large amounts of United States currency in order to maintain and finance their ongoing controlled substance business. In addition, other assets generated by their controlled substance business, or purchased with the cash earned, such as U.S. currency, precious metals and stones, jewelry, negotiable instruments and financial instruments, including stocks and bonds, are typically kept by controlled substance traffickers within their residences or separate storage facilities to avoid detection by authorities.

g. Individuals involved in controlled substances trafficking take or cause to be taken photographs of themselves, their associates, their property and their controlled substances, and usually maintain these photographs in their possession.

h. Individual involved in controlled substance trafficking will often possess in their residences, storage facilities and vehicles equipment to detect police activities and surveillance, including radio scanners and tape and wire transmitter detectors.

25. I, or any other duly authorized federal agent, will personally serve the warrant requested above, and will be assisted by other duly authorized federal investigators.

26. I have prepared this affidavit in close consultation with several federal agents with whom I work and Assistant U. S. Attorney John Weis in the Southern District of California.

27. Wherefore, your affiant respectfully requests a respectfully requests a warrant be issued authorizing I.C.E. Special agents to search the residence of 699 S. Fifth Street, Brawley, California 92227.

This affidavit is based on reports, documents, and notes furnished to I.C.E. to I.C.E. Special Agent Enrique Torregrosa.

Enrique Torregrosa, Special Agent
United States Immigration and Customs Enforcement

Subscribed and sworn before me this 14th day of March 2008.

PETER C. LEWIS
UNITED STATES MAGISTRATE JUDGE